

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

CELSIUS NETWORK LLC, *et al.*,¹

Debtors.

)
) Chapter 11
)

) Case No. 22-10964 (MG)
)

) (Jointly Administered)
)
)
)

**SIXTH JOINT STIPULATION AND AGREED ORDER
BETWEEN THE SECURITIES AND EXCHANGE COMMISSION
AND THE DEBTORS TO EXTEND THE DEADLINE FOR FILING
A NONDISCHARGEABILITY COMPLAINT AND PROOFS OF CLAIM**

This stipulation and agreed order (this “Sixth Stipulation”) is entered into this 11th day of August, 2023, by and among the above-captioned debtors and debtors in possession (collectively, the “Debtors”) and the U.S. Securities and Exchange Commission (the “SEC” and, together with the Debtors, the “Parties”).

WHEREAS, on July 13, 2022, each of the Initial Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”);

WHEREAS, by Order dated November 16, 2022, [Docket No. 1368] (the “Bar Date Order”), the Court set January 10, 2023 as the deadline by which a governmental unit, as defined in section 101(27) of the Bankruptcy Code, must file proofs of claim in the chapter 11 cases of the Initial Debtors (the “Governmental Bar Date”);

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Celsius Network LLC (2148); Celsius KeyFi LLC (4414); Celsius Lending LLC (8417); Celsius Mining LLC (1387); Celsius Network Inc. (1219); Celsius Network Limited (8554); Celsius Networks Lending LLC (3390); Celsius US Holding LLC (7956) (collectively, the “Initial Debtors”); GK8 Ltd. (1209); GK8 UK Limited (0893); and GK8 USA LLC (9450) (collectively, the “GK8 Debtors”). The location of Debtor Celsius Network LLC’s principal place of business and the Debtors’ service address in these chapter 11 cases is 50 Harrison Street, Suite 209F, Hoboken, New Jersey 07030.

WHEREAS, the SEC is a governmental unit within the meaning of the Bankruptcy Code.
11 U.S.C. § 101(27);

WHEREAS, the Parties have agreed, subject to the approval of the Bankruptcy Court, to
an extension of the Governmental Bar Date for the SEC;

WHEREAS, section 1141(d)(6) of the Bankruptcy Code provides that “the confirmation
of a plan does not discharge a debtor that is a corporation from any debt . . . (A) of a kind specified
in paragraph (2)(A) or (2)(B) of section 523(a) [of the Bankruptcy Code] that is owed to a domestic
governmental unit . . .”;

WHEREAS, Rule 4007(c) of the Federal Rules of Bankruptcy Procedure
(the “Bankruptcy Rules”) provides in relevant part that “a complaint to determine the
dischargeability of a debt under [section] 523(c) [of the Bankruptcy Code] shall be filed no later
than 60 days after the first date set for the meeting of creditors under [section] 341(a) [of the
Bankruptcy Code] . . .”;

WHEREAS, the staff of the SEC takes the position that section 523(c) of the Bankruptcy
Code and the corresponding deadline in Bankruptcy Rule 4007(c) do not apply to the
nondischargeability of a debt under section 1141(d)(6) of the Bankruptcy Code; and thus, that
section 1141(d)(6) of the Bankruptcy Code is self-effectuating and the SEC may take whatever
action may be required, if any, to determine the nondischargeability of a debt pursuant to
section 1141(d)(6) of the Bankruptcy Code at any time, including following the confirmation of a
chapter 11 plan. *See, e.g., In re Hawker Beechcraft, Inc.*, 515 B.R. 416 (S.D.N.Y. Mar. 27, 2014);

WHEREAS, the SEC does not concede the applicability of section 523(c) of the
Bankruptcy Code to determinations under section 1141(d)(6) of the Bankruptcy Code, but
recognizes that if section 523(c) of the Bankruptcy Code were to apply to such determinations,

then an action to determine the nondischargeability of a debt pursuant to section 1141(d)(6) of the Bankruptcy Code in the chapter 11 cases of the Initial Debtors would have had to be filed on or before October 18, 2022, in accordance with Bankruptcy Rule 4007(c);

WHEREAS, the Parties submitted a first stipulation on October 17, 2022 [Docket No. 1095] (the “First Stipulation”), which the Court granted on November 9, 2022, extending the deadline for filing a complaint or taking other action that may be required in the Initial Debtors’ chapter 11 cases to assert the nondischargeability of a claim under section 1141(d)(6) of the Bankruptcy Code to January 17, 2023 [Docket No. 1309];

WHEREAS, the Parties submitted a second stipulation on December 23, 2022 [Docket No. 1782] (the “Second Stipulation”), which the Court granted on January 13, 2023, extending the deadline for filing a complaint or taking other action that may be required in the Initial Debtors’ chapter 11 cases to assert the nondischargeability of a claim under section 1141(d)(6) of the Bankruptcy Code to March 31, 2023 and extending the Government Bar Date to March 31, 2023 [Docket No. 1858];

WHEREAS, the Parties submitted a third stipulation on March 16, 2023 [Docket No. 2258] (the “Third Stipulation”), which the Court granted on March 30, 2023, extending the deadline for filing a complaint or taking other action that may be required in the Initial Debtors’ chapter 11 cases to assert the nondischargeability of a claim under section 1141(d)(6) of the Bankruptcy Code to May 15, 2023 and extending the Government Bar Date to May 15, 2023 [Docket No. 2346];

WHEREAS, the Parties submitted a fourth stipulation on May 9, 2023 [Docket No. 2603] (the “Fourth Stipulation”), which the Court granted on May 24, 2023, extending the deadline for filing a complaint or taking other action that may be required in the Initial Debtors’ chapter 11

cases to assert the nondischargeability of a claim under section 1141(d)(6) of the Bankruptcy Code to June 30, 2023 and extending the Government Bar Date to June 30, 2023 [Docket No. 2710];

WHEREAS, the Parties submitted a fifth stipulation on June 27, 2023 [Docket No. 2919] (the “Fifth Stipulation”), which the Court granted on July 13, 2023, extending the deadline for filing a complaint or taking other action that may be required in the Initial Debtors’ chapter 11 cases to assert the nondischargeability of a claim under section 1141(d)(6) of the Bankruptcy Code to August 14, 2023 and extending the Government Bar Date to August 14, 2023 [Docket No. 3014];

WHEREAS, without binding precedent in this jurisdiction on this issue, and in order to avoid unnecessary litigation, the undersigned parties nonetheless seek a sixth extension of the section 523(c) of the Bankruptcy Code and Bankruptcy Rule 4007(c) deadline out of an abundance of caution, without prejudice to the SEC’s right to seek further extensions;

Based on the foregoing stipulation of the parties, it is ORDERED that:

1. To the extent section 523(c) of the Bankruptcy Code or Bankruptcy Rule 4007(c) applies, the date by which the SEC must file its complaint or take other action that may be required, if any, in the chapter 11 cases of the Initial Debtors to determine the nondischargeability of a debt, pursuant to section 1141(d)(6) of the Bankruptcy Code, shall be September 28, 2023, or such later date as may be ordered by the Court, without prejudice to the SEC’s right to seek further extensions of the date.

2. The Governmental Bar Date for the SEC shall be September 28, 2023, or such later date as may be ordered by the Court, without prejudice to the SEC’s right to seek further extensions of such dates.

3. This Sixth Stipulation is without prejudice to any rights of the Debtors or other parties in interest to object to the applicability of section 1141(d)(6) of the Bankruptcy Code to any claims asserted by the SEC.

4. Nothing in this Sixth Stipulation constitutes a determination that section 523(c) of the Bankruptcy Code or Bankruptcy Rule 4007(c) applies, or that any deadline exists to seek a determination of nondischargeability under section 1141(d)(6) of the Bankruptcy Code.

5. Neither this Sixth Stipulation nor any negotiations and writings in connection herewith will in any way be construed as or deemed to be evidence of, or an admission on behalf of any Party regarding, any claim or right that such Party may have against the other Party.

6. Neither this Sixth Stipulation, nor any terms contained herein, shall be offered as evidence in any legal or administrative proceeding among or between the Parties, other than as may be necessary: (a) to obtain approval of and to enforce this Sixth Stipulation or (b) to seek damages or injunctive relief in connection therewith.

7. Nothing in this Sixth Stipulation or the relief sought herein shall constitute or be deemed: (a) an allowance of administrative expense claims under section 503(b) of the Bankruptcy Code; (b) an assumption or rejection of an executory contract or unexpired lease under section 365 of the Bankruptcy Code; (c) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (d) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds whatsoever; (e) a promise or requirement to pay any claim; (f) an implication or admission that any particular claim is of a type specified or defined in the Sixth Stipulation or a finding that any particular claim is an administrative expense claim or other priority claim; (g) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other

encumbrance on property of the Debtors' bankruptcy estates; (h) a waiver or limitation of the Debtors', or any insurers', rights under the Bankruptcy Code or any other applicable nonbankruptcy law; or (i) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to this Sixth Stipulation are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection, or seek avoidance, of all such liens.

8. Each of the Parties to this Sixth Stipulation represents and warrants it is duly authorized to enter into and be bound by this Sixth Stipulation.

9. This Sixth Stipulation may be executed in identical counterparts, including by facsimile and/or electronic mail, each of which shall be deemed an original, but all of which together constitute one and the same instrument.

10. This Sixth Stipulation represents the entire agreement by and between the Parties with respect to the subject matter hereof, and all prior understandings or agreements, if any, are merged into this Sixth Stipulation.

11. The Court retains jurisdiction with respect to any disputes arising from or other actions to interpret, administer, or enforce the terms and provisions of this Sixth Stipulation, and the Parties hereby consent to such jurisdiction to resolve any disputes or controversies arising from or related to the implementation of this Sixth Stipulation.

IT IS SO ORDERED.

Dated: August 28, 2023
New York, New York

/s/ Martin Glenn
MARTIN GLENN
Chief United States Bankruptcy Judge

IN WITNESS WHEREOF, the Parties, by their respective authorized counsel, have
executed this Sixth Stipulation as of the date written below:

Dated: August 11, 2023

By: /s/ Therese A. Scheuer
Therese A. Scheuer
Senior Trial Counsel
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549
(202) 551-6029 (Telephone)
(202) 772-9317 (Facsimile)
scheuert@sec.gov

*Counsel for the U.S. Securities and
Exchange Commission*

/s/ Joshua A. Sussberg
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
Joshua A. Sussberg, P.C.
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
Email: joshua.sussberg@kirkland.com

- and -

Patrick J. Nash, Jr., P.C. (admitted *pro hac vice*)
Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)
Christopher S. Koenig
Dan Latona (admitted *pro hac vice*)
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
Email: patrick.nash@kirkland.com
ross.kwasteniet@kirkland.com
chris.koenig@kirkland.com
dan.latona@kirkland.com

Counsel to the Debtors and Debtors in Possession